

RECORD OF OFFICIAL PROCEEDINGS OF THE COMMON COUNCIL
CITY OF ROCHESTER, MINNESOTA
Regular Meeting No. 27 – November 1, 2004

7206

Agenda Item	
A-1	No one wished to be heard during the Open Comment Period.
B-1	President John Hunziker called the meeting to order at 7:00 P.M. with the following members present: Councilmembers Dennis Hanson, Marcia Marcoux, Jean McConnell, Sandra Means, Bob Nowicki, Walter Stobaugh. Absent: None. Also present: Mayor Ardell F. Brede.
D-1&2, 5-27	Councilmembers Hanson moved, Nowicki seconded, to approve the following consent agenda items.
D-1	Approved the minutes of the October 18, 2004, meeting.
D-2	Approved the appointment of Jerrold Atkinson to the Zoning Board of Appeals running to December 31, 2006.
D-3	See at end of D Items.
D-4	See at end of D Items.
D-5	<p>Approved the adoption of three assessments reconsidered from the October 18, 2004, as follows:</p> <p>Tree removal at 222 Tenth Street SE. Reduce charge from \$4750 to \$2000 assessed over 10 years with no interest.</p> <p>Impound Towing at 909 11th Street NW. No change from original assessment of \$162.45</p> <p>Impound Towing/Trash Removal. No change from original assessments of \$159.23 and \$890.00 but assessed over 10 years with no interest.</p>
D-6	<p>Approved the following licenses and miscellaneous activities:</p> <p><u>Gambling – Temporary</u></p> <p>Rochester Area Disabled Athletic & Recreation, Inc. – Raffle at Kahler Hotel – January 28-30, 2005.</p> <p>Shjon Podein Children's Fund – Raffle – November 14, 2004 through July 1, 2005.</p> <p>Rochester Area Disabled Athletic & Recreation, Inc. – Raffle at RADAR Office – January 28 to May 16, 2005.</p> <p>Ronald McDonald House – Raffle at RCTC Heintz Center on February 13, 2005 and Raffle at Rochester Golf & Country Club on February 5, 2005.</p> <p><u>Gambling – Premise Permit</u></p> <p>Olmsted County Hockey Association at The Break Room, 1635 Highway 52 North.</p>

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	<p><u>Liquor – Temporary On-Sale</u> Rochester Area Family Y – Wine Tasting Fundraiser at the Gilded Star Art Gallery – November 20, 2004. Lourdes Foundation – Fundraiser at High School – January 29, 2005.</p> <p><u>Heating, Ventilating, Air Conditioning</u> Hov's Plumbing, Byron</p> <p><u>Master Installer</u> Jeffrey Hovey, Byron</p> <p><u>Miscellaneous City Activities</u> Buddhist Support Society, Inc. – Kathinna Ceremony – November 7, 2004 – 1:00 to 2:30 PM</p>
D-7	Approved Accounts Payable in the amount of \$5,338,244.36 and Investment Purchases of \$5,999,295.83.
D-8	Adopted Resolution No. 536-04 approving the agreement with New World Systems for the purchase of the "Fire Permits" module subject to the City Attorney's approval of the license agreement's terms.
D-9	Adopted Resolution No. 537-04 entering into an agreement with Loffler Information Technology Services for the Public Safety Communications Center TEAC Recording equipment at a cost of \$3,272.50 for the period of July 1, 2004 to January 31, 2005.
D-10	Adopted Resolution No. 538-04 approving the increase in the towing rates for towing companies servicing the Rochester Police Department.
D-11	Adopted Resolution No. 539-04 approving changes to Routes 7N, 3N, 6B and 1D as proposed per Exhibit A for 180 day period commencing November 15, 2004.
D-12	Adopted Resolution No. 540-04 approving an extension of the parking management contract as amended with Republic Parking Systems of Chattanooga, Tennessee through December 31, 2005 with the following change: "The City shall provide personal and property insurance coverage and snow plowing at Zumbro Market lot and the Power Plant lot at the northwest corner of Civic Center Drive and 2 nd Avenue NE".
D-13	Adopted Resolution No. 541-04 authorizing payment of Supplemental Agreement #1 for \$4,345.00, Supplemental Agreement #2 for \$28,080.00 and Supplemental Agreement #3 for \$73,377.00 with McHugh Excavating & Plumbing, Inc. for Project No. M1-95 (J-9869) "Bear Creek Sub-trunkline Sanitary Sewer to Serve Portions of Sewer District 16 in Marion Township, Phase I".
D-14	Adopted Resolution No. 542-04 approving execution of a Pedestrian Facilities Agreement with John T. Costello and Audrey A. Costello and Charles A. Johnson

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	for parts of the Southwest Quarter of the Southeast Quarter, Section 7, Township 106 North, Range 13 West, Olmsted County.
D-15	Adopted Resolution No. 543-04 approving a Supplemental Development Agreement for Shannon Oaks Development, with Arcon Development, Inc.
D-16	Adopted Resolution No. 544-04 approving a Pedestrian Facilities Agreement with RGTL Properties LLC for Lots 5, 6, and 7, Block 1, Airport Industrial Park, Olmsted County, Minnesota.
D-17	Adopted Resolution No. 545-04 executing a Pedestrian Facilities Agreement with George C. Holter and Marilyn S. Holter in part of the East ½ of the Northeast 1/4, Section 26, Township 107 North, Range 14 West, Olmsted County, Minnesota.
D-18	Adopted Resolution No. 546-04 approving the execution of City/Owner Contract with Arcon Development, Inc. and Arcon Construction, Inc. for Project No. J-5149 "Basic Construction in Summit Pointe Fourth".
D-19	Adopted Resolution No. 547-04 approving the execution of City/Owner Contract with Forbrook-Bigelow Development LLC and Sammon Parker Construction, Inc. for Project No. J-5153 "Basic Construction in Manor Woods West Fifteenth".
D-20	Adopted Resolution No. 548-04 approving the execution of City/Owner Contract with First Baptist Church and Fraser Construction, Inc. for Project No. J-5143 "Phase 2 Public Improvements to Serve the First Baptist Church Property".
D-21	<p>Adopted Resolution No. 549-04 approving the following parking restriction changes:</p> <p>Add Paragraph 19.6 to Zone A "General" of Section C, "Special Parking Zones" of the Comprehensive Traffic and Parking Resolution Book, to read:</p> <p style="padding-left: 40px;">(19.6) 15th Avenue SW, from a point 180 feet, more or less, south of Sixth Street SW to Seventh Street SW, on the west side, for buses only, on school days only.</p> <p>Amend Paragraph 97.5 of Section E "Passenger Loading Zones" of the Comprehensive Traffic and Parking Resolution Book, to read:</p> <p style="padding-left: 40px;">(97.5) 15th Avenue SW, from Sixth Street SW to a point 180 feet, more or less, south of Sixth Street SW, on the west side, 15 minutes limit, 7:00 AM to 4:00 PM, school days only.</p> <p>Add Paragraph 87.7 to Section E "Passenger Loading Zones" of the Comprehensive Traffic and Parking Resolution Book, to read:</p> <p>Seventh Street SW, from 15th Avenue SW continuing west to the end of the street near TH52, on the north side, 15 minute limit, 7:00 AM to 4:00 PM, school days only.</p>

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D-22	<p>Adopted Resolution No. 550-04 approving the modification of Parking Restrictions on 14th Avenue SW, 900 Block, west side as follows:</p> <p>Amend Paragraph 3.94 of Zone F "2 Hour Parking" in Section H of the Comprehensive Traffic and Parking Resolution Book, to read:</p> <p style="padding-left: 40px;">(3.94) 14th Avenue SW, on the west side, from a point 250 feet, more or less, south of Ninth Street SW to a point 500 feet, more or less, south of Ninth Street SW, 6:00 AM to 6:00 PM, all days.</p> <p>Add Paragraph 32B to Section B "No Parking" of the Comprehensive Traffic and Parking Resolution Book, to read:</p> <p style="padding-left: 40px;">(328) 14th Avenue SW, on the west side, from a point 500 feet, more or less, south of Ninth Street SW to Memorial Parkway SW, at all times.</p>
D-23	<p>Adopted Resolution No. 551-04 awarding the contract for Project No. J-6524 "Ditch Remedial Work for Pond No. 127 SW in Eagle Ridge 4th and 5th Subdivision" to Elcor Construction Company for \$48,567.00.</p>
D-24	<p>Adopted Resolution No. 552-04 authorizing the Mayor and City Clerk to execute the release of the Contribution Agreement dated July 17, 1998, Recorded Document No. 785521, for Hawk Ridge Development.</p>
D-25	<p>Adopted Resolution No. 553-04 approving the execution of the North Star Business Park Development Agreement with Joel Bigelow & Sons Enterprises, Inc.</p>
D-26	<p>Adopted Resolution No. 554-04 approving a purchase order agreement for one acre of residential property adjacent to the Chester Substation from Wilbert and Grace Rueb in the amount of \$139,500.</p>
D-27	<p>Adopted Resolution No. 555-04 approving Change Order No. 1 for Project No. J-4390 "2004 Influent Pump Station Substructure for the Water Reclamation Plant" with Sheehy Construction Company, Inc. for a decrease of \$73,568 in the bid price and a revised Final Completion Date of April 1, 2005 from March 25, 2005.</p> <p>Ayes (7), Nays (0). Motion carried.</p>
D-3	<p>Mayor Brede wished to call attention to the opportunity to attend this tour and asked the council to appropriate \$2,500 from the 2004 Contingency Account for the Second Annual Rochester On Tour at the Capital to be held on January 25, 2005.</p> <p>Councilmembers Marcoux moved, Means seconded to approve the expenditure of \$2,500 from the 2004 Contingency Account for the Second Annual Rochester On Tour at the Capital. Ayes (7), Nays (0). Motion carried.</p>
D-4	<p>Councilmember Marcoux requested appropriation of \$6,000 from the 2004 Contingency Account to assist funding the Art center's strategic planning and feasibility study be tabled to allow for more information to be brought to the council.</p>

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	<p>Councilmembers Marcoux moved, McConnell seconded to table to allow for the council to gather more information. Ayes (6), Nays (0). Motion carried. Councilmember Stoabaugh abstained stating he served on the board of the Art Center.</p>
E-1	<p>A Continued Hearing on Final Plat #03-26 by Wildwood Meadow Inc. to be known as Wildwood Meadow.</p> <p>The applicant has withdrawn the final plat application until the conditional use permit for filling in the floodplain is scheduled before the Council.</p>
E-2	<p>A Continued Hearing on Preliminary Plat #04-29 to be known as Pine Ridge Estates Sixth by Denny Peterson and Approval of a Substantial Land Alteration Permit for property located west of TH52, east of Ponderosa Drive SW.</p> <p>A letter was received from the applicant's representative requesting the Council to table Pine Ridge Sixth Subdivision and waiving the 60 days approval schedule. The owner also agrees to maintain the secondary access road until the Sixth Subdivision is constructed. The punch lists items for the Pine Ridge Fourth and Fifth Subdivisions have been nearly completed and the silt fence in the Fourth Subdivision will be restored. The owner has directed Yaggy Colby Associates to amend the grading plan for Pine Ridge Fourth to finish grading on the lots.</p> <p>Wishing to be heard was Joe Wiggs, 2248 Ponderosa Drive SW. Mr. Wiggs expressed his concerns about the development and lack of commitment to get the work completed correctly. On behalf of the neighborhood association, he asked that this application be denied.</p> <p>Staff confirmed that the construction on Ponderosa Lane had not met the conditions set in the approval of the Pine Ridge Estates Fourth and Fifth development agreement. Mitzi Baker introduced Planning Ordinance 61.225, A, H, and J that could be used for criteria to deny the application.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmember Hanson moved, Nowicki seconded to instruct the City Attorney to prepare Findings of Facts, Conclusions of Law and Order to be brought back to Council for its consideration. The Findings should be prepared so as to deny Preliminary Plat #04-29 to be known as Pine Ridge Estates Sixth. Ayes (7), Nays (0). Motion carried.</p>
E-3	<p>A Hearing to Establish Development District No. 31, Development District Tax Increment Financing District No. 31-1 and Adopt the Related Tax Increment Financing Plan.</p> <p>Wishing to be heard was Ryan Sailer, 4807 Florida Ave. N., Minneapolis, from MWF Properties representing the applicant Georgetown Square, LLC. He thanked the council and was available for any questions.</p>

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Having no one further wishing to be heard, President Hunziker closed the hearing. Councilmembers Means moved, Marcoux seconded, to adopt Resolution No. 556-04 approving the Development District #31 and Tax Increment Financing District Plan #31-1. Ayes (7), Nays (0). Motion carried.

A Hearing on Land Use Plan Amendment #04-06 by Randy and Mary Reynolds to designate land for Industrial from Low Density Residential types of uses on property located along the west side of Marion Road, north of 29th Street SE.

President Hunziker also opened the hearing on Zoning District Amendment #04-15 and General Development Plan #245 by Randy and Mary Reynolds. All testimony taken in Item E-4 will apply to the three items.

Wishing to be heard was Mark Welch, GGG Inc. 14070 Hwy 52 SE, Chatfield, representing the developer. He explained the reasons for the requested zone change. The large commercial buildings on the property would be better served remaining as they are and finding a use for them conducive to the structure. Of the 20 acres, 2 will remain Residential but not for development at this time. Four acres could be commercial along Marion Road. The industrial zoning request would fit the property and the current buildings for development.

Staff recommended a Restricted Development for the property, but the developer feels the uniqueness of the property including the buildings makes having the strict plans required for a Restricted Development would not be feasible.

Wishing to be heard was Marlin Klingerman, 2605 Pearl Court SE, representing the Rose Haven Subdivision. He stated his concern of this property being in the Flood Plain and any work done may affect the homes in the subdivision.

Mitzi Baker, Planning and Zoning, stated that the zoning for the 10.75 acres is zoned R-1 so there was no need for the council to act on this item.

Having no one further wishing to be heard, President Hunziker closed the hearing.

Councilmembers Stobaugh moved, Marcoux seconded to deny Land Use Plan Amendment #04-06 by Randy and Mary Reynolds on the basis of the Findings recommended by the Planning Commission and instructing the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order. Ayes (7), Nays (0). Motion carried.

E-5

A Hearing on Zoning District Amendment #04-15 by Randy and Mary Reynolds to rezone land from the I to the M-2 and R-1 on property located along the west side of Marion Road, north of 29th Street SE.

All testimony taken in Item E-4 was considered in the E-5 Public Hearing.

Councilmembers Stobaugh moved, Nowicki seconded, to deny Zoning District Amendment #04-15 by Randy and Mary Reynolds regarding the 9.69 acres from the I to the M-2 district on the basis that it is inconsistent with the existing Land Use

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RECORD OF OFFICIAL PROCEEDINGS OF THE COMMON COUNCIL
 Regular Meeting NO. 27 - ESTER, November 11, 2014

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	<p>Plan and on the further basis provided by the Findings of the Planning Commission and instructing the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order. Ayes (7), Nays (0). Motion carried.</p>
E-6	<p>A Hearing on General Development Plan #245 by Randy and Mary Reynolds on property located along the west side of Marion Road, north of 29th Street SE.</p> <p>All testimony taken in Item E-4 was considered in the E-6 Public Hearing.</p> <p>Councilmembers Stobaugh moved, Nowicki seconded, to deny General Development Plan #245 by Randy and Mary Reynolds on the basis the GDP being inconsistent with Land Use Plan and Zoning District and on the further basis provided by the Findings of the Planning Commission and instructed the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order. Ayes (7), Nays (0). Motion carried.</p>
E-7	<p>A Hearing on Zoning District Amendment #04-16 by Second Street Investors, LLC. to rezone property from R-1 to the B-5 on property located in the southwest corner of the intersection of 23rd Avenue SW and Country Club Road.</p> <p>President Hunziker also opened the hearing on General Development Plan #246 by Second Street Investors, LLC to be known as Second Street Plaza. All testimony taken in Item E-7 will apply to both items.</p> <p>Wishing to be heard was Josh Johnson, McGhie and Betts representing the applicant. Mr. Johnson explained the intended use for the property. He is in agreement with the conditions with the exception of number two regarding the storm sewer infrastructure. This area has been made adequate for the development. The staff agreed to removal of this condition.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Hanson moved, Marcoux seconded, to approve the Zoning District Amendment #04-16 by Second Street Investors, LLC and instructed the City Attorney to prepare the required ordinance for adoption. Ayes (7), Nays (0). Motion carried.</p>
E-8	<p>A Hearing on General Development Plan #246 by Second Street Investors, LLC to be known as Second Street Plaza and approval of a Substantial Land Alteration for property located in the southwest corner of the intersection of 23rd Avenue SW and Country Club Road.</p> <p>All testimony taken in Item E-7 was considered in the E-8 Public Hearing.</p> <p>Councilmember Hanson moved, McConnell seconded, to approve General Development Plan #246 by Second Street Investors, LLC to be known as Second Street Plaza with Condition one, two minus the second sentence and four, Condition three is removed with the approval of the Design Modification and instructed the City Attorney to prepare Findings of Fact, Conclusions of Law, and</p>

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E-9	<p>Order. and adopt Resolution No. 557-04 approving the Substantial Land Alteration Activity. Ayes (7), Nays (0). Motion carried.</p> <p>A Hearing on Type III, Phase II Amendment to GDP #144 known as Ridgeview Manor located along the south side of 65th Street NW and along the west side of 50th Avenue NW.</p> <p>President Hunziker also opened the hearing on Preliminary Plat #04-37 to be known as Ridgeview Manor Fourth by BBB Development. All testimony taken in E-9 will apply to both items.</p> <p>Wishing to be heard was Ward Opitz, BBB Development, representing the developer. He was in agreement with the conditions for both Item E-9 and E-10 and was available for any questions.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Marcoux moved, McConnell seconded, to approve Type III, Phase II Amendment to GDP #144 known as Ridgeview Manor with two conditions and instructed the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order. Ayes, (7), Nays (0). Motion carried.</p>
E-10	<p>A Hearing on Preliminary Plat #04-37 to be known as Ridgeview Manor Fourth by BBB Development located along the south side of 65th Street NW and along the west side of 50th Avenue NW.</p> <p>All testimony taken in E-9 was considered in the E-10 public hearing.</p> <p>Councilmembers Marcoux moved, Nowicki seconded, to approve Preliminary Plat #04-37 to be known as Ridgeview Manor Fourth by BBB Development with five conditions and instructed the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order and adopt Resolution No. 558-04 approving the Substantial Land Alteration Activity. Ayes (7), Nays (0). Motion carried.</p>
E-11	<p>A Hearing on Type III, Phase II Amendment to GDP #146 known as Kingsbury Hills located along the south side of 55th Street NW and along the east side of 60th Avenue NW.</p> <p>Wishing to be heard was Ward Opitz, Joel Bigelow & Sons Enterprises, Inc. representing the developer. He stated they were in agreement with the conditions and was available for any questions.</p> <p>Mitzi Baker, Planning Commission stated the applicant filed the revised GDP meeting all the requirements of condition one.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Nowicki moved, Stobaugh seconded, to approve Type III, Phase II Amendment to GDP #146 known as Kingsbury Hills with eight conditions as</p>

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E-12	<p>amended and instructed the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order. Ayes (7), Nays (0). Motion carried.</p> <p>A Hearing on Preliminary Plat #04-35 by Cassidy Land Development LLC to be known as Cassidy Hills Subdivision and Design Modification #04-10 for property located north of East Circle Drive and west of the Emerald Hills Development.</p> <p>Wishing to be heard was Mark Engle, Yaggy Colby Associates representing the developer. He stated they were in agreement with the conditions and was available for any questions.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Nowicki moved, Stobaugh seconded, to approve Preliminary Plat #04-35 by Cassidy Land Development LLC to be known as Cassidy Hills Subdivision with 10 conditions and instructing the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order, and denying the Design Modification #04-10. Ayes (7), Nays (0). Motion carried.</p>
E-13	<p>A Hearing on Preliminary Plat #04-36 by ABBCO Company to be known as Northern Reserve Second located south of East Circle Drive and north of the Glendale Hills Development.</p> <p>Wishing to be heard was Mark Engle, Yaggy Colby Associates, representing the developer. He stated they were in agreement with the conditions and was available for any questions.</p> <p>Wishing to be heard was Bill MacMonegle, 2810 Northern Slopes Lane NE. He is concerned over the way run-off runs through the back of his property since the development of the area has started. Mike Nigbur, Public Works, stated that the grading plan will be reviewed. Mr. Engle also explained the development is planned so that the streets will collect some of the run off that is now occurring before construction and flowing across the MacMonegle property.</p> <p>Wishing to be heard was Dave Tepley, 1419 Glendale Hills Dr. NE. Mr. Tepley was concerned over the removal of the trees along the hillside. He felt there should be more council control over trees possibly a tree ordinance. He also asked about the hammerheads on the end of the cul-de-sacs. Mitzi Baker, Planning Commission explained that these were shown as private drives on the GDP.</p> <p>Mitzi Baker suggested that a condition #7 be added. The condition will state "Drainage Easements shall be dedicated on the Final Plat as determined necessary by the city through final grading and drainage plan review". This will help with the final plat stage of the development in regards to the drainage. Mr. Engle agreed to the condition.</p> <p>Wishing to be heard was Randy Staver, 2707 Century Lane NE, and a member of the Planning Commission. Mr. Staver stated that he was pleased with the condition added to this Preliminary Plat.</p>

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E-14	<p data-bbox="363 344 1455 554">Having no one further wishing to be heard, President Hunziker closed the hearing. Councilmembers Nowicki moved, Means seconded, to approve Preliminary Plat #04-36 by ABBCO Company to be known as Northern Reserve Second with 7 conditions and instructed the City Attorney to prepare Findings of Fact, Conclusions of Law, and Order and adopt Resolution No. 559-04 approving the Substantial Land Alteration Activity. Ayes (7), Nays (0). Motion carried.</p> <p data-bbox="363 575 1455 680">A Hearing on Preliminary Plat #04-38 to be known as Spring Brook Valley by Kimberly Shiber and COPAR Company located south side of 33rd Street SW and Southtown Heights, north of 36th Street SW and west of TH63.</p> <p data-bbox="363 701 1455 1247">Wishing to be heard was Kristi Clark, McGhie and Betts, representing the developer. She explained that there has been an extensive Environment Assessment Worksheet prepared for this property and approved by the council. She said there is a 35 foot no-build/development zone that should have been included in the Preliminary Plat presented to the Planning Commission. This would be an easement behind the properties with no development whatsoever with a proposed neighborhood association having control to enforce the no development. It would be designed like the Mayo Woodland Preservation document. This would be a Preservation Easement that would be recorded prior to the Final Plat and permanent signage would be installed stating the no-build area. The GDP showed 19 sites for detached single family homes on the northern portion, this has been reduced to 14 and on the southern portion there would be a reduction from 44 to 24 detached townhomes. Ms. Clark stated they were in agreement with the 11 conditions and agrees to a 12th condition stating a private no-build/development easement proposal be submitted to Planning and the City Attorney for approval prior to final plat.</p> <p data-bbox="363 1268 1455 1394">Wishing to be heard was Dan Campion, 412 33rd Street SW. Mr. Campion reminded the council that a condition of the GDP was this area was to be 35 foot public buffer. He felt this should not be private as it takes away city control.</p> <p data-bbox="363 1415 1455 1625">Wishing to be heard was Zach Klaus, 504 33rd Street SW. Mr. Klaus asked the difference between no-build and no-disturb which was talked about at the Planning meeting. He was concerned about the clearing of trees and the burning of brush during construction projects. This caused an air quality issue for the area when cleared during another development. He also felt that this should be a public controlled area.</p> <p data-bbox="363 1646 1455 1730">Wishing to be heard was Wendy Turri, 604 33rd Street SW wanting to clarify that the motion from the tapes of the meeting stated a "35 foot undisturbed buffer".</p> <p data-bbox="363 1751 1455 1835">Zach Klaus stated that when he looked at purchasing land near his property, he found there was an easement along the property line that is not shown on the plat.</p> <p data-bbox="363 1856 1455 1921">Kristi Clark, McGhie and Betts, stated the private easement with very specific and stringent instructions for the area is the best solution for all concerned.</p>

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	<p>Wishing to be heard was Jennifer Mann, 715 36th Street SW asked if this no-disturb easement could be added to the homeowners abstracts for any future buyers to know that this is a permanent condition. She was also concerned over increased traffic especially construction vehicles.</p> <p>Wishing to be heard was Wendy Turri, 604 33rd St. SW, wanted clarification on when there will be a chance for more input from residents on the language of the Easement Document. She was assured there would be a chance before the final plat is presented for approval.</p> <p>Kristi Clark, McGhie and Betts, was asked to make sure all concerned neighbors are contacted and informed outside of the city/county legal notification.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmember Hanson moved, Nowicki seconded, to approve Preliminary Plat #04-38 to be known as Spring Brook Valley by Kimberly Shiber and COPAR Company with 12 conditions. The twelfth condition being "No-build easement must be submitted to all of the affected neighbors or their representative for their input and submitted to the city council for their approval before the recording of the easement or final plat." The City Attorney was instructed to prepare Findings of Fact, Conclusions of Law, and Order. Ayes (7), Nays (0). Motion carried.</p>
E-15	<p>A Hearing on Final Plat #04-40 by Vision Real Estate Investments, to be known as Vision Real Estate Replat and Substantial Land Alteration permit for land located along the north side of 19th Street NW.</p> <p>Wishing to be heard was Brandon Anderson with John Oliver & Associates, Inc. 201 West Travelers Trail, Suite 200, Burnsville, MN representing the developer. Mr. Anderson stated they were in agreement with the conditions and was available for any questions.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Means moved, Nowicki seconded, to adopt Resolution No. 560-04 approving Final Plat #04-40 by Vision Real Estate Investments, to be known as Vision Real Estate Replat with three conditions and adopt Resolution No. 561-04 approving the Substantial Land Alteration Activity. Ayes (7), Nays (0). Motion carried.</p>
E-16	<p>A Hearing on Utility Vacation Petition #04-19 by Foxfield, LLC, Weatherstone of Rochester, LLC and Weatherstone Townhomes Limited Partnership to vacate all utility and drainage easements dedicated on the plat of Foxfield located along the west die of 50th Avenue NW, south of Middlebrook Drive NW and north of the Weatherstone Development.</p> <p>Having no one wishing to be heard, President Hunziker closed the hearing.</p>

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E-17	<p>Councilmembers Stobaugh moved, Marcoux seconded, to adopt Resolution No. 562-04 approving Utility Vacation Petition #04-19 by Foxfield, LLC, Weatherstone of Rochester, LLC and Weatherstone Townhomes Limited Partnership. Ayes (7), Nays (0). Motion carried.</p> <p>A Hearing on Annexation Petition #04-16 by Joel Bigelow & Sons Enterprises to Annex Land Located East of 60th Avenue NW, East and South of the Kingsbury Hills Third Development.</p> <p>Wishing to be heard was Ward Opitz, Bigelow & Sons representing the applicant. Mr. Opitz stated he was available for any questions.</p> <p>Having no one further wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Marcoux moved, Hanson seconded to approve Annexation Petition #04-16 by Joel Bigelow & Sons Enterprises, and instructed the City Attorney to prepare the required ordinance for adoption. Ayes (7), Nays (0). Motion carried.</p>
E-18	<p>A Hearing on Annexation Petition #04-17 by Rodney Younge to Annex Land Located East of 8th Street SW, West of West Circle Drive SW and South of Meadow Lakes Golf Course.</p> <p>Having no one wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Nowicki moved, Means seconded, to approve Annexation Petition #04-17 by Rodney Younge, and instructed the City Attorney to prepare the required ordinance for adoption. Ayes (7), Nays (0). Motion carried.</p>
E-19	<p>A Hearing on Text Amendment #01-08, initiated by the Rochester Planning and Zoning Commission, to amend Sections 60.200, 62.220, 62.223, 62.230, 62.252, 63.122, 63.441 and 63.455 of the City of Rochester Zoning Ordinance and Land Development Manual addressing residential off-street parking and related issues.</p> <p>Having no one wishing to be heard, President Hunziker closed the hearing.</p> <p>Councilmembers Stoabaugh moved, McConnell seconded, to approve Text Amendment #01-08, initiated by the Rochester Planning and Zoning Commission, to amend Sections 60.200, 62.220, 62.223, 62.230, 62.252, 63.122, 63.441 and 63.455 of the City of Rochester Zoning Ordinance and Land Development Manual addressing residential off-street parking and related issues. Ayes (7), Nays (0). Motion carried.</p>
F-1	<p>Councilmembers Hanson moved, Nowicki seconded, to adopt Resolution No. 563-04 approving the execution of a Development Assistance Agreement with Georgetowne Homes Limited Partnership for the Georgetowne Homes Phase 2 (#31-1) Tax Increment Financing project. Ayes (7), Nays (0). Motion carried.</p>

RECORD OF OFFICIAL PROCEEDINGS OF THE COMMON COUNCIL
CITY OF ROCHESTER, MINNESOTA
Regular Meeting No. 27 – November 1, 2004

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Agenda Item	
G-2a	An Ordinance Rezoning Approximately .87 acres of Property from the R-1 Zoning District to the B-5 Zoning District, and Amending Ordinance No. 2785, Known as the Zoning Ordinance and Land Development Manual of the City of Rochester, Minnesota was given a first reading. (Zoning District Amendment #04-16)
G-2b	An Ordinance Annexing to the City of Rochester Approximately 21.81 Acres of Land located in the West Half of Section 18, Township 107 North, Range 14 West, Olmsted County, Minnesota was given a first reading. (Annexation Petition #04-16)
G-2c	An Ordinance Annexing to the City of Rochester Approximately 3.98 Acres of Land Located in the Southeast Quarter of Section 5, Township 106 North, Range 14 West, Olmsted County, Minnesota was given a first reading. (Annexation Petition #04-17)
G-2d	An Ordinance Creating and Enacting Section 63.459, and Amending and reenacting Sections 60.200, 62.223, 62.230, 62.252, 63.122, 63.400, 63.441, 63.455, and 63.510 of the Rochester Code of Ordinances, Relating to Residential Parking was given a first reading.
G-3a	An Ordinance Creating and Enacting Section 96.012 of the Rochester Code of Ordinances, Relating to the Creation of a Taxicab Franchise in the City of Rochester, was given a second reading. Councilmembers Hanson moved, Marcoux seconded, to approve the Ordinance as read. Ayes (7), Nays (0). Motion carried.
G-3b	An Ordinance Amending and Reenacting Section 141.12 of the Rochester Code of Ordinances, Relating to the Burning of Trees and Brush, was given a second reading. Councilmembers Marcoux moved, Stobaugh seconded, to approve the Ordinance as read. Ayes (7), Nays (0). Motion carried.
G-3c	An Ordinance Amending and Reenacting Section 64.132 of the Rochester Code of Ordinances, Relating to the Installation of Public Facilities and Utilities, was given a second reading. Councilmembers Marcoux moved, Stobaugh seconded, to approve the Ordinance as read. Ayes (7), Nays (0). Motion carried.
G-3d	An Ordinance Amending and Reenacting Sections 61.200 of the Rochester Code of Ordinances, Relating to Information About Burning of Trees and Debris As Part of Subdivision Activity, was given a second reading. Councilmembers Means moved, Stobaugh seconded, to approve the Ordinance as read. Ayes (7), Nays (0). Motion carried.
H-1	Councilmember Hanson moved, Marcoux seconded, to remove Item H-1 from the table for comment. Ayes (7), Nays (0). Motion carried.
	Steve Kvenvold, City Administrator, recommended a public hearing with the intent to take public testimony to repeal the current official street map and allow development to proceed without an official street map. By placing a moratorium on this issue, this would deny the Preliminary Plats that are currently submitted and

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allow for an the interim period for the two parties to work on this frontage road alignment issue and where it would be best suited for both developments.

Terry Adkins, City Attorney, stated legally the 2002 version of the Official Street Map #12 is the Official document whether it was recorded or not because it repealed the 2000 Map. The problem lies in that staff have approved and recommended to Council GDP and Preliminary Plat applications for approval under the 2000 map instead of the 2002 version. Attorney Atkins suggested repealing the 2002 version and readopting the 2000 map.

Wishing to be heard was John Jensen, 3800 Simpson Road SE. Mr. Jensen stated a condition for the West 80 GDP and the Preliminary Plat of his project was compliance with the Official Street Map. The 2002 version was used for this approval and to use the 2000 version would make his road 300 feet west of the TH63 right-of-way. He feels the council should comply with the already approved applications.

Wishing to be heard was John Arnold, Dunlap and Seeger, representing the developer of Willow Creek Commons Project. He stated they were in agreement with the repeal of the 2002 map and the reinstatement of the 2000 ordinance.

Mitzi Baker, Planning Commission, explained that GDP #159 for West 80 was submitted under a different developer's proposal. The GDP #159 was approved consistent with the 2002 street map, however the Preliminary Plat filed and approved by Planning Commission and Council, matched the 2000 map alignment. An amended Preliminary Plat has been filed but at this time, it hasn't been processed and presented to the Planning Commission. The Council reviewed the amended application and this complied more with the 2002 street map.

A temporary storm water pond on the West 80 property is in question as to whether there is adequate down stream facilities to eliminate the pond. Richard Freese, Public Works Director, stated that at this time there are no adequate storm water management facilities in place downstream of the West 80 property.

Wishing to be heard was Roger Carlson, 4410 19th Street NW. Mr. Carlson explained that because of the Council previously approval of the street map and that he was told by Mr. Kottschade that the Willow Creek Commons project was going to be tabled until 2006, he and his partners re-submitted the Preliminary Plat for West 80. They also sent a proposal for exchanging or trading land with Willow Creek Commons but at this point they haven't heard if the proposal has been reviewed and accepted or rejected.

Wishing to be heard was Frank Kottschade, 4719 Warwick Lane NW. Mr. Kottschade stated the information from West 80 is being reviewed by his consultant but he hasn't had sufficient enough time to respond. He feels the decision of the Council will make a profound impact on the community and real estate tax base. He recommended Council refer the issue to a public hearing by the Council or Planning Commission for testimony.

RECORD OF OFFICIAL PROCEEDINGS OF THE COMMON COUNCIL
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There was a written request presented to the Council from Mr. Kottschade that the Willow Creek Commons Preliminary Plat be brought back to the Council. Attorney Adkins asked Mr. Kottschade if he was agreeable to a public hearing on December 6, 2004 Council Meeting and agree to the Preliminary Plat being brought back to staff with the waiver of the time restraint for the time needed to complete the process. The earliest this could come back to Council would be December 20, 2004. Mr. Kottschade and legal counsel, Mr. Arnold, were in agreement with the request from Attorney Adkins.

Councilmembers Stobaugh moved, McConnell seconded, to instruct the staff to schedule a public hearing for December 6, 2004 Council Meeting to hear testimony to consider options in regard to the 2002 and 2000 Official Street Map and whether to refer the entire matter for potential repeal or adoption of a new map for the Planning Commission consideration. Ayes (7), Nays (0). Motion carried.

J-1

Having no further business, Councilmembers Stobaugh moved, Nowicki seconded, to recess the meeting to November 5, 2004 at 4:30 P.M. to be held in the City Clerk's Office.


Deputy City Clerk